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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,263	09/27/2001	Howard Yaphe	ZL369-02008	3416

22884 7590 04/09/2003

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EXAMINER
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SAWHNEY, HARGOBIND S

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/965,263

Applicant(s)

YAPHE ET AL.

Examiner

Hargobind S Sawhney

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings filed on September 27, 2001 are acceptable subject to correction of the informalities indicated on the attached "Notice of Draftperson's Patent Drawing Review," PTO-948.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities:

Claim 1, line 2, use of " an elongated linear housing " as well as " an elongated housing " for recitation of the same element 12 ( page 6, lines 17 and 18) needs to be corrected to avoid confusion. The limitation " an elongated linear housing " should be rephrased as -- an elongated housing -- in rest of this claim and in all other claims including claims 11-16. Claim 11 recites the limitations " a longitudinal linear housing ", "longitudinal housing" and "housing" addressing the same element of the device.

Claim 1, lines 5 and 6 (each), "the linear housing" needs to be rephrased as – the longitudinal housing" as suggested above.

Claim 1, lines 7-9 (each), "support" should be rephrased as " housing support" for definite recitation.

Claim 1, lines 8 and 9, " the housing bottom and top walls to support the a elongated housing bottom and top walls in fixed spaced relation to each other" is confusing. This limitation should be rephrased as -- the top and bottom surface portions of the support housings support the bottom and top walls of the elongated housing in fixed spaced relation to each other --. This suggested rephrasing is based on the details described in lines 5 and 6 on page 2 of the specification.

Claim 2, line 1, " the housing comprises and extruded aluminum material" needs to be rephrased as -- the housing comprises an extruded aluminum material --.

The instant application has been reviewed considering the limitations with the above-indicated suggested recitations.

Appropriate correction is required.

Claims 2-10 are necessarily objected because of their dependency on the objected base Claim 1.

Claims 12-16 are necessarily objected because of their dependency on the objected base Claim 11.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Corcorran et al. (US Patent No.: 6,305,816 B1).

Corcorran et al. ('816 B1) discloses a linear light fixture 10 (Figures 1 and 2, column 3, line 48) for suspension from overhead structure 17 (Figure 1, column 3, line 61), and the linear light fixture 10 comprising:

- an elongated housing 12 (Figures 1 and 2, column 3, line 64) having a bottom wall 28 and an elongated top wall 30,32 – consisting two longitudinal portions 30 and 32 – defining an elongated slot 34 (Figures 2 and 3, column 4, lines 55-59) extending along the elongated housing top wall 30,32 (Figures 2 and 3);
- a plurality of housing supports 18 (Figures 2 and 3, column 3, lines 56-59) mounted within the elongated housing 12;
- each of the housing supports further having a bottom surface portion 50 and a top surface portion 54 (Figures 2 and 3, column 4, lines 26-29) conforming in shape to the elongated housing 12 (Figures 2 and 3);

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- the bottom surface portions 50 and the top surface portions 54 of the housing supports 18 respectively engaging in mating slide fit (Figures 2 and 3, column 5, lines 40-49) relationship;
- the bottom surface portions 50 and the top surface portions 54 of the housing supports 18 supporting the respective bottom wall 28 and the top wall 30,32 in fixed spaced relation to each other (Figures 2 and 3, column 5, lines 40-45); and
- the housing supports 18 being adapted for suspension from the overhead structure 17, and supporting the elongated housing 12 (Figures 1 and 2, column 3, lines 59-61).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corcoran et al. (US Patent No.: 6,305,816 B1) in view of Soorus et al. (US Patent No.: 5,806,967) .

Regarding claim 2, dependent on Claim 1, Corcorran et al. ('816 B1) teaches a linear light fixture 10 (Figures 1 and 2, column 3, line 48) comprising an elongated housing 12 (Figures 1 and 2, column 3, line 64) including an extruded material. Corcorran et al. ('816 B1) further teaches that the extrudable material of any light metal would meet the functional requirement of the device (Figures 1-3, column 3, lines 63-66; and column 4, lines 49-52 and column 5, lines 1-7).

Although, Corcorran et al. ('816 B1) does not specifically teach the longitudinal housing be made of an extruded aluminum metal, the above indicated teaching of using any light metal strips allows the use of aluminum for the elongated housing. Further, the use of an extruded aluminum strips for an elongated body for a light fixture is well known in the art.

It would be have been obvious to one of ordinary skill in the art at the time of the invention to further modify the linear fixture of Corcorran et al. ('816 B1) by providing an elongated housing from an extruded aluminum strip well known in the art.

Additionally, Corcorran et al. ('816 B1) does not teach a linear light fixture comprising a longitudinal housing with supports – at each end – each comprising a one-piece plastic material.

On the other hand, Soorus et al. ('967) discloses a linear light fixture 10) Figure 1, column 5, line 53) comprising a longitudinal housing with supports 18 (Figure 1, column 5, lines 55-63). Additionally, Soorus et al. ('967) teaches each of the supports 18 being made of a one-piece plastic material (Figure 1, column 6, lines 42-44).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to further modify the linear fixture of Corcorran et al. ('816 B1) by providing supports made from plastic as taught by Soorus et al. ('967) for the benefits and advantages of light weight of the device.

***Allowable Subject Matter***

5. Claims 3-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record, including Corcorran et al. (US Patent No.: 6,305,816 B1), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose proper motivation for combining:

- an elongated housing having its first and second portions terminating in an outward facing peripheral edges as recited in Claim 3;
- the housing supports comprising a first and second supports each further having a peripheral flange limiting the placement – sliding fit- of the housing supports in to the elongated housing as recited in Claim 3; and
- abutting of the peripheral flange and the peripheral edge of the elongated housing providing complete insertion – mounting - of each support into the elongated body as recited in Claim 3.



Claims 4-10 are necessarily objected because of their dependency on the objected base Claim 3.

6. Claims 11-16 are objected because of their having informalities detailed in section 2 of this office action , but would be allowable if rewritten with appropriate corrections.

Regarding Claim 1<sub>1</sub>, the linear lighting fixture disclosed by the applicant generally comprises:

- an elongated housing including at least an elongated bottom and opposing first and second portions each bearing first and second supports;
- the first and second supports being adapted for suspension from an overhead structure to support the elongated housing; and
- each of the first and second supports further having a recess, extending therethrough.

The prior art of record, including Corcorran et al. (US Patent No.: 6,305,816 B1), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose proper motivation for combining:

- each of the first and second supports further having a connector recess, extending therethrough as recited in Claim 11;
- a first electrical power plug seated in the first connector recess as recited in Claim 11;
- the first electrical plug having its front face with connection terminals facing outwardly of the housing as recited in Claim 11; and

- the first electrical plug further having its rear face with electrical wiring extending from the first electrical plug connector through the support and into the longitudinal housing as recited in Claim 11.

Claims 12-16 are necessarily would be allowable because of their dependency on the allowed base Claim 11.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Corcorran et al. (U.S. Patent No. 6,186,642 B1)

Huang (U.S. Patent No. 5,746,502);

Lamming (U.S. Patent No. 5,716,123);

Engel (U.S. Patent No. 4,933,820);

Engel (U.S. Patent No. 4,876,633); and

Marrero (U.S. Patent No. 4,338,653).

Each of the above-indicated prior arts discloses a lighting apparatus comprising some of the claimed features claimed by the applicant.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S Sawhney whose telephone number is 703-306-5909. The examiner can normally be reached on 7:30 A.M. to 4:30 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2956.

HSS  
April 5, 2003

Examiner:  Hargobind S. Sawhney